

*Filed in Open Court this 9<sup>th</sup> day of May, 2007  
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**UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE**

IN RE ASTROPOWER, INC. ) **Civil Action No. 03-CV-260**  
SECURITIES LITIGATION )  
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**ORDER AND FINAL JUDGMENT**

The Stipulation and Agreement Settlement, dated January 30, 2007, (the “Stipulation”), of the above-captioned consolidated civil action (the “Action”), having been presented at the Settlement Fairness Hearing on May 9, 2007, pursuant to the Order for Notice and Hearing entered herein on February 6, 2007 (“Preliminary Approval Order”), which Stipulation was joined and consented to by all parties to the Action (the “Parties”) and which (along with the defined terms therein) is incorporated herein by reference.

The Court, having determined that notice of said hearing was given in accordance with the Preliminary Approval Order to members of the Class as certified by the Court in the Preliminary Approval Order, and that said notice was the best notice practicable and was adequate and sufficient; and the Parties having appeared by their attorneys of record; and the attorneys for the respective Parties having been heard in support of the Stipulation and the settlement of the Action provided therein (the “Settlement”); and an opportunity to be heard having been given to all other persons desiring to be heard as provided in the notice; and the entire matter of the Settlement having been considered by the Court;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. The Court, for purposes of this Order and Final Judgment, adopts all defined terms as set forth in the Stipulation.

2. The Court has jurisdiction over the subject matter of the Action, the Lead Plaintiff, the other members of the Class, and the Defendants.

3. The Notice of Proposed Settlement of Class Action, Motion for Attorneys' Fees and Reimbursement of Expenses and Settlement Fairness Hearing (the "Notice") has been given to the Class (as defined hereinafter), pursuant to and in the manner directed by the Preliminary Approval Order, proof of the mailing of the Notice was filed with the Court by Lead Counsel, and full opportunity to be heard has been offered to all Parties, the Class, and persons in interest. The form and manner of the Notice is hereby determined to have been the best notice practicable under the circumstances and to have been given in full compliance with each of the requirements of FED. R. CIV. P. 23, and it is further determined that all members of the Class are bound by the Judgment herein.

4. Pursuant to FED. R. CIV. P. 23:

- a. The Court specifically finds that (i) the Class, as defined below, is so numerous that joinder of all members is impracticable, (ii) there are questions of law and fact common to the Class, (iii) the claims of the Lead Plaintiff are typical of the claims of the Class, (iv) the Lead Plaintiff will fairly and adequately protect the interests of the Class;
- b. The Court finds that Lead Plaintiff and Lead Counsel have adequately represented the interests of the Class with respect to the Action and the claims asserted therein;
- c. The Court finds that the questions of law or fact common to the members of the Class predominate over any questions affecting only individual members, and that the class action is superior to other available methods for the fair and efficient adjudication of the controversy; and
- d. This Action is hereby certified as a class action on behalf of all persons who purchased the common stock of AstroPower between

May 7, 2001 and April 1, 2003, inclusive (the "Class"). Excluded from the Class are: (a) Defendants and their immediate families; (b) other officers and directors of AstroPower and their immediate families; (c) the legal representatives, heirs, successors or assigns of all such parties; (d) any entity in which Defendants have or during the Class Period had a controlling interest; (e) General Electric; and (f) Elecnor, S.A.

5. The Settlement, and all transactions preparatory or incident thereto, are found to be fair, reasonable, adequate, and in the best interests of the Class, and it is hereby approved. The Parties to the Stipulation are hereby authorized and directed to comply with and to consummate the Settlement in accordance with its terms and provisions; and the Clerk of this Court is directed to enter and docket this Judgment in the Action.

6. This Judgment, the Stipulation and all negotiations, statements, and proceedings in connection herewith shall not, in any event, be construed or deemed to be evidence of an admission or concession on the part of the Lead Plaintiff, any Defendant, Astropower, any member of the Class, or any other person, of any liability or wrongdoing by them, or any of them, and shall not be offered or received in evidence in any action or proceeding (except an action to enforce this Stipulation and settlement contemplated hereby), or be used in any way as an admission, concession, or evidence of any liability or wrongdoing of any nature, and shall not be construed as, or deemed to be evidence of, an admission or concession that Lead Plaintiff, any member of the Class, any present or former stockholder of Astropower, or any other person, has or has not suffered any damage.

7. Upon the Effective Date of this Settlement, Plaintiffs and members of the Class on behalf of themselves and each of their heirs, executors, administrators, successors and assigns, and any persons they represent, shall, with respect to each and

every Settled Claim, release and forever discharge, and shall forever be enjoined from prosecuting, any Settled Claims against any of the Released Parties.

8. Upon the Effective Date of this Settlement, each of the Defendants and Astropower, on behalf of themselves and their successors and assigns, shall release and forever discharge each and every of the Settled Defendants' Claims, and shall forever be enjoined from prosecuting the Settled Defendants' Claims.

9. "Released Parties" means the Defendants and Astropower, their past or present subsidiaries, affiliates, parents, successors, and predecessors, estates and assigns, and the respective officers, directors, shareholders, agents, legal representatives, trustees, employees, attorneys, insurers, reinsurers, advisors, and investment advisors, auditors, accountants, and any person, firm, trust, corporation, officer, director or other individual or entity in which any Defendant or Astropower has or had a controlling interest or which is related to or affiliated with any of the Defendants or Astropower, and the legal representatives, heirs, successors in interest or assigns of the Defendants or Astropower.

10. "Settled Claims" means any and all claims, debts, demands, rights or causes of action or liabilities, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, whether fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, whether class or individual in nature, including both known claims and Unknown Claims (as defined below), (i) that have been asserted in this Action by the Class Members or any of them against any of the Released Parties, or (ii) that could have been asserted in any forum by the Class Members or any of them against any of the Released Parties which arise out of or relate to the allegations, transactions, facts, matters or occurrences,

representations or omissions involved, set forth, referred to or that could have been asserted in the Complaint and related to the purchase of Astropower common stock.

11. “Settled Defendants’ Claims” means any and all claims, rights or causes of action or liabilities whatsoever, whether based on federal, state, local, statutory or common law or any other law, rule or regulation, including both known claims and unknown claims, that have been or could have been asserted in the Action or any forum by the Defendants or Astropower, or the successors and assigns of any of them against any of the Plaintiffs, Class Members or their attorneys, which arise out of or relate in any way to the institution, prosecution, or settlement of the Action.

12. “Unknown Claims” means any and all Settled Claims which any Plaintiff or Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Parties, and any Settled Defendants’ Claims which any Defendant or Astropower does not know or suspect to exist in his, her or its favor, which if known by him, her or it might have affected his, her or its decision(s) with respect to the Settlement. With respect to any and all Settled Claims and Settled Defendants’ Claims, the Parties stipulate and agree that upon the Effective Date, the Lead Plaintiff, Defendants and Astropower shall expressly waive, and each Class Member shall be deemed to have waived, and by operation of the Order and Final Judgment shall have expressly waived, any and all provisions rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Lead Plaintiff, Defendants and Astropower acknowledge, and the Class Members by operation of law shall be deemed to have acknowledged, that the inclusion of “Unknown Claims” in the definition of Settled Claims and Settled Defendants’ Claims was separately bargained for and was a key element of the Settlement.

13. It is the intention of the Parties to extinguish all Released Claims, and, consistent with such intention, the Class has waived its rights, to the extent permitted by law, under Section 1542 of the California Civil Code, or any other similar state law, federal law, or principal of common law, which may have the effect of limiting the releases set forth herein. The release ordered hereby extends to claims that the Lead Plaintiff, the Class Members and the Released Parties do not know or suspect to exist as of the effective date of the Settlement as defined in the Stipulation which, if known, might have affected their decision regarding the releases contained in this Judgment. Lead Plaintiffs, the Class Members, and the Released Parties have acknowledged that they may discover facts in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Releases, but have stated that it is their intention to fully, finally, and forever settle and release any and all claims released hereby, known or unknown, suspected or unsuspected, which now exist, or heretofore existed, or may hereafter exist, and without regard to the subsequent discovery or existence of such additional or different facts.

14. The Plan of Allocation is approved as fair and reasonable, and Lead Counsel and the Claims Administrator are directed to administer the Stipulation in accordance with its terms and provisions, *except that any funds remaining after a second distribution will be returned to the Defendants.*

15. The Court finds and concludes, pursuant to Section 27(c)(1) of the Securities Act of 1933 and Section 21D(c)(1) of the Securities Exchange Act of 1934, as amended by the PSLRA, 15 U.S.C. §§ 77z-1(c)(1), 78u-4(c)(1), that the Lead Plaintiff, Lead Counsel, Defendants, and Defendants' Counsel have complied with each requirement of Rule 11(b) of the Federal Rules of Civil Procedure as to any complaint, responsive pleading, or dispositive motion.

16. The Court finds that all Persons within the definition of the Class have been adequately provided with an opportunity to remove themselves from the Settlement by executing and returning a "request for exclusion" in conformance with the terms of the Stipulation. All persons who have requested exclusion from this Settlement in the manner described in the Notice are not bound by this Judgment. All persons who have opted out of this Action are identified on Exhibit I hereto.

17. In the event that the Settlement fails to become effective in accordance with its terms, or if this Judgment is reversed, vacated, or materially modified on appeal (and, in the event of material modification, if any party elects to terminate the Settlement), this Judgment (except this Paragraph) shall be null and void, the Settlement, except for ¶¶ 8, 30, 32, and 36 of the Stipulation, shall be deemed terminated, and the parties shall return to their pre-settlement positions as provided for in the Settlement, except that (1) any modifications, reversal, or vacation of the award of attorneys' fees and expenses to Lead Counsel on appeal or in any further motions in this Court shall in no way disturb or affect any other part of this Judgment, and (2) any further proceedings, whether in this Court or on appeal, related to the Plan of Allocation shall in no way disturb or affect any other part of this Judgment.

18. Only those Class members filing valid and timely Proofs of Claim and Release shall be entitled to participate in the Settlement and receive a distribution from the Settlement Fund. The Proof of Claim and Release to be executed by the Class Members shall further release all Released Claims against the Released Persons. All Class members shall, as of the Effective Date, be bound by the releases set forth herein whether or not they submit a valid and timely Proof of Claim and Release.

19. Lead Counsel are hereby awarded attorneys' fees of 25% of the Settlement Fund and reimbursement of expenses in the amount of \$ 857,833.34. The attorneys' fees and expenses shall be paid to Lead Counsel from the Settlement Fund with interest from the date such Settlement Fund was funded to the date of payment at the same net rate that the Settlement Fund earns. The award of attorneys' fees shall be allocated among Plaintiffs' Counsel in a fashion which, in the opinion of Lead Counsel, fairly compensates Plaintiffs' Counsel for their respective contributions in the prosecution of the Action.

20. In making this award of attorneys' fees and reimbursement of expenses to be paid from the Settlement Fund, the Court has considered and found that:

- a. the settlement has created a fund of \$1,000,000 million in cash, plus interest thereon, and that numerous Class members who submit acceptable Proofs of Claim will benefit from the Settlement created by Lead Counsel;
- b. Over 30,000 copies of the Notice were disseminated to putative Class Members indicating that Lead Counsel were moving for attorneys' fees in the amount not to exceed 25% of the Settlement Fund and for reimbursement of expenses in an amount of up to \$100,000, and only two objections were filed against the terms of the proposed Settlement, and only one objection was filed against the ceiling on the fees and expenses requested by Lead Counsel contained in the Notice;

- c. This Action involved numerous difficult issues related to liability and damages;
- d. Lead Counsel achieved this Settlement with skill, perseverance, and diligent advocacy for the Class;
- e. Had Lead Counsel not achieved the Settlement there would remain a significant risk that Lead Plaintiff and the Class may have recovered less or nothing from the Defendants;
- f. Lead Counsel have devoted over 650 hours, with a lodestar value of \$267,313.80, to achieve the Settlement; and
- g. Lead Counsel pursued this Action on a contingent basis;
- h. Lead Counsel has requested 25% of the Settlement Fund in attorneys' fees, which is consistent with awards in similarly complex cases in this jurisdiction; and
- i. This Settlement was negotiated at arm's length, and no evidence of fraud or collusion has been presented.

21. Without affecting the finality of this Judgment in any way, the Court reserves exclusive and continuing jurisdiction over the Action, the Lead Plaintiff, the Class, and the Released Parties for the purposes of: (1) supervising the implementation, enforcement, construction, and interpretation of the Stipulation, the Plan of Allocation, and this Judgment; (2) hearing and determining any application by Lead Counsel for an award of attorneys' fees, costs, and expenses; and (3) supervising the distribution of the Settlement Fund.

SIGNED this 9 day of May 2007.

  
**JUDGE JOSEPH J. FARNAN JR.**  
**UNITED STATES DISTRICT JUDGE**